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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,256	09/10/2003	Tsung-I Yu	YUTS3014/EM	4016
23364	7590	12/10/2004	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			ALTER, ALYSSA M	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,256

Applicant(s)

YU, TSUNG-I

Examiner

Alyssa M Alter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/10/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/10/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 1-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, the claiming of structures being in contact with or implanted within the body amounts to an inferential recitation of the body, which renders these claims non-statutory. The examiner recommends changing "in contact" to --adapted to be in contact with--.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 describes pants that can be "in direct contact with a human chest". It is unclear how pants can be in contact with the chest.
2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "effect of medium and low frequency" in claim 1 is a relative term which renders the claim indefinite. The term "medium and low frequency" is not defined by the claim, the specification does not provide a standard for

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ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

3. Claims 3 and 9 recites the limitation "an elastic waistband" in the third and fifth line of the respective claims. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether the applicant intends to claim the waistband. It is suggested to first positively recite the waistband before it is used.

4. Claim 6 recites the limitation "said pulsed high voltage generated" in the second line of claim 6. There is insufficient antecedent basis for this limitation in the claim.

5. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term in claim 7, "is installed" is vague and sounds more like a method step rather than a structural limitation.

6. Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Both claims 10 and 11 are vague and sounds more like a method step rather than a structural limitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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1. Claims 1-3 and 7-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maida (US 6,151,528) in view of Wyss et al. (US 4,148,321) and Post et al. (US 6,210,771). Maida discloses the claimed invention and using low and medium frequencies.

In the alternative, Maida does not disclose the low and medium frequencies, conductive buttons and overlapping conductive strips. Wyss et al. teaches that it is known to use low and medium frequency during muscle massage, as set forth at column 2, lines 7-19. Post et al. teaches that it is known to substitute fasteners of known functional equivalents as set forth at column 2, lines 42-46 and to overlap the conductive strips in at column 2, line 54. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pulse-current generator and the clips as taught by Maida with the low and medium frequency generator, conductive buttons and the overlapping conductive strips, respectively, as taught by Wyss et al. and Post et al., in order to reduce pain during the massaging of muscles, make the generator removable in order to wash the garment and to conserve space while stimulating different areas of the body.

As to claim 3, Maida discloses, "in figs. 1 to 3 of the drawings, electrically conductive portions of the fabric layer are denoted by 13, 14 and 15 and are disposed at the patient's waist (sheath belt) and thighs (sheath leggings) respectively"(col. 3, lines 12-15). The elastic fabric of the insulating coating layer 23, thus creates an electrically conductive portion at the waist that is elastic.

As to claim 7, Maida discloses a "generator 12 comprises a device 24 (e.g. a switch) for selection of the connections of the generator outputs to the three electrically conductive poles 13, 14, 15"(col.4, lines 46-48).

As to claims 11-12 and 18, Maida discloses in col. 3, lines 25-28 "at the conductive portions 13, 14, 15 there are electrical contact means or strips 17, 18, 19 respectively each provided with a sticky surface for steady application or sewn".

As to claims 13-14 and 16-17, Maida discloses in col. 3 and 4, lines 65-67 and 1-9, the use of an insulating coating layer 23 on toreador shaped pants as seen in figure 1. The elastic fabric of the insulating coating layer 23, obviously functions similarly to the toreador pants with elastic in the lateral sides because both provide a means for stretching in order to fit individual users.

2. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Maida as applied to claims 1-3 and 7-18 above. The modified Maida discloses the claimed invention with the hertz range in col. 4, lines 30-38 but fails to teach the I/C circuit. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the generator as taught by Maida with an I/C circuit since it was known in the art that therapy systems use I/C circuits to provide a smaller inexpensive circuit with reduced capacitance.

Specification

1. The disclosure is objected to because of the following informalities: page 5, line 15 references the internal circuit "in Figures 5 and 6". In actuality it is in figures 6 and 7. Appropriate correction is required.
2. The disclosure is objected to because of the following informalities: page 6, line 20 references "Fig. 14" when it describes figure 11. Appropriate correction is required.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "contact with a human chest" in claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of

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the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 22 in Figures 2 and 3. In addition, 18 in Figures 5, 8-11 and 14-15 was also omitted from the specification. Only 18 in figure 21 was described. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M Alter whose telephone number is (571) 272-4939. The examiner can normally be reached on M-F 9am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alyssa M. Alter

Alyssa M Alter
Examiner
Art Unit 3762

AMA

GEORGE R. EVANS
GEORGE R. EVANS
PRIMARY EXAMINER

12/9/4